

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
NORTHERN DIVISION

JAMES IRVING DALE,  Petitioner,  vs.  DARIN YOUNG, WARDEN AT SOUTH DAKOTA STATE PENITENTIARY,  Respondent.	1:16-CV-01037-CBK  ORDER DENYING MOTION TO APPEAL WITHOUT THE PREPAYMENT OF FEES
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Petitioner filed a petition for a writ of habeas corpus challenging the revocation of his parole. His petition was denied as moot because petitioner was released from state custody upon the expiration of his sentence. I have denied a certificate of appealability.

Petitioner filed a notice of appeal and a motion to appeal without the prepayment of fees. I find that this appeal is not taken in good faith. If the petitioner's request for a certificate of appealability is granted by the Eighth Circuit Court of Appeals, he would be entitled to seek permission from the Court of Appeals to proceed on appeal *in forma pauperis* pursuant to Fed. R. App. P. 24(a)(5).

Now, therefore,

IT IS ORDERED that petitioner's motion to proceed on appeal without the prepayment of fees, Doc. 23, is denied.

DATED this 20<sup>th</sup> day of January, 2017.

BY THE COURT:

  
CHARLES B. KORNMANN  
United States District Judge